

## McElroy Deutsch

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October 31, 2024

**Via ECF**

Hon. Julien X. Neals, U.S.D.J.  
Martin Luther King, Jr. Federal Building  
and U.S. Courthouse  
50 Walnut Street  
Newark, New Jersey 07101

**Re: *In re Apple Inc. Smartphone Antitrust Litigation*  
Civil Action No. 2:24-md-03113 (JXN)(LDW)**

Dear Judge Neals:

Counsel for Apple Watch Direct Purchaser Plaintiffs (“Watch Plaintiffs”) and Defendant Apple Inc. submit this joint letter regarding the Court’s Case Management Order.

Your Honor’s Case Management Order Number 1, Section 6, instructs that “Interim Class Counsel and Defendants shall submit a joint agenda and status report to the Court fourteen (14) calendar days after the Court enters an order appointing Interim Lead Counsel.” The Case Management Order further instructs that “Counsel shall meet and confer—in person, by teleconference or by video conference—and seek consensus to the extent possible with respect to joint agenda items for the Initial Case Management Conference.”

The Court entered an order appointing the undersigned counsel for Plaintiff Joseph Giamanco Interim Lead Counsel for the putative class of Watch Plaintiffs on October 17, 2023. The Court has not yet appointed Interim Lead Counsel for the Direct iPhone Purchasers or ruled on the proposal to appoint an executive committee for the Indirect iPhone Purchaser putative class. In an effort to comply with the Case Management Order, Counsel for Watch Plaintiffs requested that Apple meet and confer to discuss a potential joint status report and case management conference agenda with respect to the Apple Watch claims. Apple declined to meet and confer on a joint status report and case management conference agenda that applies only to the putative class of Watch Plaintiffs, stating that, in its view, the Court intends the MDL parties to negotiate a single joint agenda in preparation for a single initial conference for all putative classes in the MDL. Apple also suggested that the Case Management Order contemplates the issuance of a single case schedule for all cases in this MDL.

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## **Watch Plaintiffs' Position**

Watch Plaintiffs submit this letter to ensure their compliance with the Case Management Order. Watch Plaintiffs do not understand this Court's orders to require the single joint agenda, single initial conference, or single case schedule that Apple contemplates. While close coordination between the Apple Watch and iPhone cases will be essential in this MDL, Watch Plaintiffs respectfully submit that differences between their claims and the iPhone claims mean that it is more practical and efficient if the Apple Watch and iPhone claims are not grouped together for all case management purposes, and if the Apple Watch and iPhone claims are not subject to identical case schedules. Watch Plaintiffs hoped to use the proposed meet and confer and initial case management conference as an opportunity to discuss these benefits with Apple and the Court.

Watch Plaintiffs would still welcome that opportunity. If the Court so orders, Watch Plaintiffs are prepared to meet and confer with Apple and to submit a status report regarding the parties' views as to how to most efficiently manage litigation of the Apple Watch claims in coordination with the iPhone claims. Otherwise, Watch Plaintiffs will present these views to the Court and to Apple as part of a joint status report and case management conference with appointed counsel for the iPhone purchaser plaintiffs.

## **Apple's Position**

Apple reads the Court's Case Management Order to direct all parties to meet and confer regarding a single joint agenda once all interim lead counsel have been appointed. Apple stands ready to negotiate with all interim lead counsel, once the appointment process is complete, to prepare for the Court a single list of case management issues to discuss, thereby avoiding piecemeal or uncoordinated proceedings.

Respectfully Submitted,

/s/ Thomas R. Curtin

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/s/ Liza M. Walsh

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cc: All counsel (by ECF)